



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|------------------------|---------------------|------------------|
| 09/679,287 | 10/06/2000 | Allan E. Brockenbrough | 782.1082/DSG | 8376 |

21171 7590 09/06/2006

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

| |
|----------|
| EXAMINER |
|----------|

ESCALANTE, OVIDIO

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

2614

DATE MAILED: 09/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/679,287

Applicant(s)

BROCKENBROUGH ET AL.

Examiner

Ovidio Escalante

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 and 43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 1-25, 27-41, 43 is/are allowed.
- 6) ☒ Claim(s) 26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to applicant's amendment filed on July 13, 2006. **Claims 1-41 and 43** are now pending in the present application.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claim 26 is rejected under 35 U.S.C. 102(e) as being anticipated by Delaney et al. US Patent 6,999,565.

Regarding claim 26, Delaney teaches a voice mail message, (col. 7, lines 59-65), comprising:

a message area containing at least a voice message (col. 8, lines 1-3) and each of:
an audio stationary header preceding the message area, (col. 8, lines 8-9),
an audio stationary footer following the message area, (col. 8, lines 9-10), and
an audio stationary body occurring at least once in said message area in combination with the voice message, (col. 8, lines 4-14).

Allowable Subject Matter

4. Claims 1-25,27-41 and 43
5. The following is a statement of reasons for the indication of allowable subject matter:

Art Unit: 2614

Regarding claims 1,27,39,40,41 and 43, the claims recite at least the combination of a voicemail message with background sound and wherein the background sound is looped for a duration corresponding to a duration of the voice message.

The closes prior art of record Gold, Kawashima and Ogino provide a voice mail message with background music. Gold, Kawashima and Ogino teaches that it was well known in the art to provide background music for the length of the voice mail message, however, Gold Kawashma and Ogino do not teach or suggest of "looping" the background sound if the length of the selected sound is less than a duration of the message or "looping" for a duration corresponding to a duration of the voice message.

Response to Arguments

6. Applicant's arguments filed July 13, 2006 have been fully considered but they are not persuasive.

Applicant contends that Delaney does not teach or suggest an audio body occurring in a message area in combination with the voice message. The Examiner respectfully disagrees.

In col. 8 lines 7-14 Delaney teaches:

In the case of **audio** messages, for example, a message delivery server 167 may append an audio "**header**" (typically a so-called "professional prompt") and a "**trailer**" to the **customer's message**. Thus, when the recipient answers the telephone, the header portion of the message may tell him that he is about to receive a message from the customer, and the trailer portion may facilitate response (as explained in further detail below).

The above paragraph shows at least three clearly distinct parts. Delaney teaches of an audio "header" which will come before the customer's message (audio station body) and a message "trailer" which will follow the message area (customer's message). The audio message as a whole represents the voice message and thus the header, body and footer are all represented

Art Unit: 2614

in the voice message and therefore, Delaney meets and anticipates the claims as it is currently claimed.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any response to this action should be mailed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

or faxed to:

(571) 273-8300, (for formal communications intended for entry)

Or:

(571) 273-7537, (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to:

Customer Service Window

Art Unit: 2614

Randolph Building
401 Dulany Street
Alexandria, VA 22314

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ovidio Escalante whose telephone number is 571-272-7537. The examiner can normally be reached on M-Th from 6:30AM to 4:00PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan S. Tsang can be reached on 571-272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

OVIDIO ESCALANTE
PATENT EXAMINER
Ovidio Escalante

Ovidio Escalante
Primary Patent Examiner
Group 2614
September 1, 2006

O.E./oe